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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/261.362	03/03/99	SALGO	P SAL-3.2001/7

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MM12/0121

EXAMINER

GIBSON, R

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 01/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/261,362

Applicant(s)  
Salgo

Examiner  
Randy Gibson

Group Art Unit  
2859



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-11 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasty et al. Hasty et al disclose the claimed invention including a flexible potentiometer (14) mounted on top of the bed having sensors (30,32) which change resistance based on the degree of flexure.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person*

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*having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

4. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berger et al in view of Swersey. Berger et al show a system for monitoring the weight of a patient but does not indicate what the weight reading is to be used for. Swersey teaches that it is known to use a signal indicative of a patient's instantaneous weight to control a system supplying medicine to a patient (Col. 3, ln.s 24-55). It would have been obvious to one of ordinary skill in the art to use the weighing device of Berger et al in a system for dispensing medicine, as taught by Swersey, to insure patient safety.

5. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammett in view of Berger et al and Swersey. Hammett shows flexible potentiometers (27) placed in a bed sheet which change in resistance when compressed (Col. 3, 67 to col. 4, ln. 23). Hammett does not expressly monitor for changes in weight (he simply detects movement by detecting which strip has weight applied to it), nor does he use a signal indicative of a patient's instantaneous weight to control a system supplying medicine to a patient. Berger et al teach that it is known that actually measuring the patient's instantaneous changes in weight provide for better patient monitoring and health (Col. 1, ln.s 10-59). Swersey teaches that it is known to use a signal indicative of a patient's instantaneous weight to control a system supplying medicine to a patient (Col. 3, ln.s 24-55). It would have been obvious to one of ordinary skill in the art to use the sheet of Hammett to

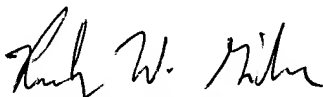
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detect the instantaneous weighing weight of a patient, as taught by Berger et al, in a system for dispensing medicine, as taught by Swersey, to insure patient safety.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Engelsher et al, Mracek et al, and Asno show flexible mats for weighing bed ridden patients.

7. Any inquiry concerning this communication should be directed to R. Gibson whose telephone number is (703) 308-1765. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (703) 308-3875. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Randy W. Gibson  
Primary Examiner  
January 14, 2000